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13 *Kennedy Marketing Group, Inc.*

14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**

16
17 KENNEDY MARKETING GROUP,
INC., a California corporation,

18 Plaintiff,

19 v.

20 IDEAL DIRECT AD GROUP, INC.,
21 a California corporation; SYSTEMS
MARKETING, INC., a Kentucky
22 corporation, doing business as
AUTOSUCCESS MAGAZINE, and
23 DOES 1 through 50, inclusive,

24 Defendants.

Case No. 8:17-CV-01253-DOC-JCG

Judge David O. Carter

PERMANENT INJUNCTION

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PERMANENT INJUNCTION

1 Having considered the stipulation of Plaintiff Kennedy Marketing Group,
2 LLC (“KMG”) and Defendant Ideal Direct Ad Group, Inc. (“Ideal”) and good cause
3 appearing, the Court hereby finds and orders as following.

4 **Findings of Fact**

5 1. The Court has subject matter jurisdiction over this action and personal
6 jurisdiction over the parties to this action.

7 2. The Court finds from the Complaint and Stipulation of the parties:

- 8 a. KMG has registered federal copyrights and a trademark and
9 claims specified trade dress;
10 b. KMG asserts and presents evidence that Ideal infringed on the
11 claimed trade dress and/or registered copyrights, trademark
12 and/or;
13 c. KMG asserts that a substantial likelihood of success on the
14 merits exists regarding its claims against Ideal.
15 d. KMG asserts and presents evidence that its trade dress includes
16 the combination of or substantial similarities to: a bi-fold and/or
17 vertical fold brochure; with messages similar to KMG’s
18 copyrights (i.e., using copyright language such as “trade keys”,
19 “toss us the keys”, etc.) and format and order similar to KMG’s
20 works, and the use of a business card and handwritten sticky
21 note (“**KMG Trade Dress**”). KMG asserts that (1) its trade
22 dress is inherently distinctive or has become distinctive through
23 secondary meaning; (2) there is a likelihood of confusion among
24 consumers as to the source of the competing products; and (3)
25 the trade dress is nonfunctional.

26 **Conclusions of Law and Permanent Injunction**

27 Rather than litigate the foregoing assertions, which Ideal has disputed, the
28 Parties have reached a settlement pursuant to a Court ordered mediation, whereby

1 they have stipulated to a Permanent Injunction against Ideal and all persons acting
2 as agents of or in concert with it, directly or indirectly, which the Court adopts and
3 pursuant to which the Court concludes as follows:

4 1. Ideal is enjoined from using, disclosing and/or infringing on KMG
5 copyrights, trademarks and Trade Dress at issue in this Action, whether federally
6 registered or arising at common law;

7 2. Ideal is enjoined from using the advertisement at issue in this lawsuit;

8 3. Ideal is enjoined from using the registered trademark sticky note or the
9 words “see me for a great deal”;

10 4. Ideal shall not utilize any promotional mailers confusingly similar to
11 KMG’s mailers, including mailers featuring in any non-infringing mailer or work a
12 business card and handwritten sticky note. However, Ideal will not be found to
13 infringe on KMG’s trade dress by creating mailers or works featuring: a non-bi-
14 fold or vertical fold mailer brochure; using photo(s) of vehicle(s); using whatever
15 quality of paper and printing; and using entirely different messages, slogans (i.e.,
16 provided Ideal cannot use copyrighted language such as “trade keys”, “toss us the
17 keys”, etc.), formats or orders of text, than KMG and its proprietary works.

18 **IT IS SO ORDERED.**

19
20 Dated: July 2, 2018

David O. Carter

DAVID O. CARTER

U.S. District Court Judge

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23 Dated: June 29, 2018____

24
25 By: /s/ Wm. Kelly Nash

Wm. Kelly Nash

Attorneys for Plaintiff Kennedy
Marketing Group, Inc.